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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,639	10/22/2003	Richard Fearn		4051

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EXAMINER

ROBERTSON, TIARA S

ART UNIT PAPER NUMBER

3635

DATE MAILED: 05/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/689,639	FEARN, RICHARD	
	Examiner	Art Unit	
	Tiara S. Robertson	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-5, 8 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6, 7, 9-16 and 18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/01/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-5 and 8 are withdrawn from consideration.

Election/Restrictions

2. Newly submitted claim 17 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claim 17 discloses a new embodiment, as shown in fig. 2, where the stakes are positioned adjacent the form member and are connected to tab portion instead of struts.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 17 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

3. Claims 6-7, 9-16 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cardwell et al. (4,790,509).

Regarding claim 6 and 9-13, Cardwell et al. teaches, in fig. 1, the implied method of constructing a concrete column comprising the steps of: selecting and cutting a length of a flexible cardboard tube form element (12 and Col. 2, line 44-50) from a larger length of flexible tube form element; the element having portions extending outwardly therefrom (10); securing the portion of the tube form element

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to first and second vertical support members (52 and 54) and sandwiching the portion in between the first and second vertical support members; and bracing the first and second vertical support members (60), thereby supporting the flexible tube form element in an upstanding position; and substantially filling the flexible tube with form element with concrete (Col. 2, lines 44-48); where the step of bracing comprises the step of positioning the first vertical support member and the form element in the upstanding position.

Regarding claim 7, Cardwell et al. teaches the method as described in claim 6, where the form element is left in place on the concrete surface while it cures (Col. 2, lines 44-48).

Regarding claim 14-16, 18-19 Cardwell et al. teaches, in fig. 1, the implied method of constructing a concrete column comprising the steps of: erecting a flexible tube form element (12) have at least one portion extending outwardly from its perimeter (10); supporting the flexible tube form at a portion thereof; and filling the flexible tube form element with concreting material (Col. 2, lines 44-48).

Where supporting the flexible tube form element comprises the steps of: reinforcing the portion with a first vertical support member (52); bracing the vertical support member with a strut (60); and attaching the first vertical support member to a portion of the flexible form element (52).

Although Cardwell et al. does not specifically disclose a method of constructing a concrete column, it would be obvious to one having ordinary skill

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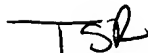
in the art, that method of constructing a concrete column using the specified form as disclosed by Cardwell et al. is inherent.


Conclusion

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tiara S. Robertson whose telephone number is 571-272-2944. The examiner can normally be reached on Monday-Thursday, 7-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


TSR
4/25/06


Carl D. Friedman
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